

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

DELTIDE FISHING AND RENTAL TOOLS, INC.  
and SEABRIGHT INSURANCE CO.,

Petitioners,

v.

DIRECTOR, OFFICE OF WORKERS' COMPENSATION  
PROGRAMS, UNITED STATES DEPARTMENT OF LABOR;  
and SHANNON HAMIL (DECEASED),

Respondents

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On Petition for Review of an Order of the Benefits  
Review Board, United States Department of Labor

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BRIEF FOR THE FEDERAL RESPONDENT

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## STATEMENT REGARDING ORAL ARGUMENT

Pursuant to Rule 34(a) of the Federal Rules of Appellate Procedure and Fifth Circuit Rule 28.2.2, the Director, OWCP, requests oral argument, which he believes would assist the Court.

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UNITED STATES DEPARTMENT OF LABOR,  
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On Petition for Review of a Final Order  
Of the Benefits Review Board

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BRIEF FOR THE FEDERAL RESPONDENT

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<sup>1</sup> The actual claimants in this case are Shannon Hamil's three minor children, who are seeking death benefits under the Longshore Act. *See* 33 U.S.C. § 909(a), (c). On May 14, 2015, the claimants filed a motion to substitute those children for Mr. Hamil as the private respondents.

## **STATEMENT OF SUBJECT MATTER AND APPELLATE JURISDICTION**

Shannon Hamil's children filed a claim for benefits under the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. §§ 901-950 (Longshore Act), as extended by the Outer Continental Shelf Lands Act, 43 U.S.C. § 1333(b). The Administrative Law Judge (ALJ) had jurisdiction to hear the claim pursuant to 33 U.S.C. §§ 919(c) and (d). The ALJ's Order on Remand, issued on October 23, 2013, ERE 25,<sup>2</sup> became effective when filed in the office of the District Director on October 24, 2013. Deltide Fishing and Rental Tools, Inc. (Deltide or Employer), Hamil's former employer, filed a notice of appeal with the Benefits Review Board on November 6, 2013, within the thirty-day period provided by 33 U.S.C. § 921(a). ER 207. That appeal invoked the Board's review jurisdiction under 33 U.S.C. § 921(b)(3) of the Act.

The Board issued its Decision and Order affirming the ALJ's decision on November 25, 2014. ERE 29. Under 33 U.S.C. § 921(c), any party aggrieved by a final decision of the Board can obtain judicial review in the United States Court of Appeals in which the injury occurred by filing a petition for review within sixty days of the Board's order. Deltide filed its Petition for Review with this Court on

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<sup>2</sup> ERE refers to the Employer/Petitioner's Record Excerpts.

December 30, 2014, within the prescribed sixty-day period. The Board's order is final pursuant to § 921(c) because it completely resolved all issues presented. *See Newpark Shipbuilding & Repair, Inc. v. Roundtree*, 723 F.2d 399, 406 (5th Cir. 1984) (en banc). This Court has geographic jurisdiction under 43 U.S.C. § 1333(b) and 33 U.S.C. § 921(c) because Hamil was injured on the Outer Continental Shelf off the coast of Louisiana.

### **STATEMENT OF THE ISSUES**

Within three weeks of breaking his ankle at work, Hamil was prescribed 241 tablets of Lortab, a narcotic containing the pain reliever hydrocodone. When Hamil requested more pain medication, his treating physician discussed narcotics overuse with him and limited him to an additional 30 pills over the next two weeks. Hamil then sought and obtained additional prescriptions for pain medication from two other physicians. He died of an accidental overdose of that medication approximately four months later. There was no evidence suggesting that Hamil was addicted to narcotics before the injury.

The issue presented is whether it was reasonable for the ALJ to infer that Hamil became addicted to narcotics while being treated for his broken ankle, and that his death by overdose was, consequently, a natural result of that workplace injury?

## STATEMENT OF THE CASE

### I. STATEMENT OF THE FACTS

On October 1, 2009, while working for the Employer as a cutting operator on a fixed oil platform in the Outer Continental Shelf off the coast of Louisiana, Hamil fractured his right ankle when his foot became trapped between the platform's deck and some pipes. ERE 3 (citing CX-3, CX-5 at 4, 7, 9). To help relieve his pain after the injury, Hamil was prescribed Lortab, a painkiller containing hydrocodone, a narcotic opioid. All told, Hamil received 241 doses of Lortab, and an additional 30 doses of Soma (a narcotic containing the muscle relaxer carisoprodol), in the first three weeks after his injury.<sup>3</sup>

The prescriptions began the day of the injury. Dr. Brian Bourgeois prescribed 16 pills of Lortab on October 1, and another 20 Lortab the next day. *Id.* (CX-7 at 7; CX-16 at 8). Hamil then received care from orthopedist Dr. Lawrence Line. In the course of treating Hamil's ankle, Dr. Line prescribed 40 Lortab on October 5; 30 on October 7; 40 on October 15 (the day he had surgery); 35 on October 19; and 30 on October 21. *Id.* at 3-4 (CX-8 at 10; CX-16 at 8-9). He also prescribed 30 tablets of Soma on October 16, 2009. CX-16 at 9. On October 22,

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<sup>3</sup> The addictive properties of these drugs are not disputed.

Hamil requested more pain medication and Dr. Line prescribed an additional 30

Lortab. Dr. Line's notes of that October 22 visit state:

At this point the patient is expecting more pain medication. . . . I told him he is not exhibiting any significant pain at this point and his vital signs are stable, and at this point everything appears to be well. At this point we had a discussion about his pain medication. I told him I would give him an additional 30 Lortab 7.5 mg as well as an additional 15 Mobic 15 mg to use and at this point this is going to have to last him for 2 weeks.

*Id.* at 4 (CX-8 at 20; CX-16 at 9). Dr. Line did not prescribe any more Lortab until December 10, 2009, when he surgically removed the screw he had placed in Hamil's ankle, and prescribed an additional 30 pills. *Id.* (CX-8 at 28; CX-16 at 10).

Between October 22 and December 10, however – while Dr. Line was still treating Hamil, but had restricted his access to additional narcotics – Hamil went to another physician, who refilled his prescription for Lortab. This occurred on November 20, 2009, when Dr. Matthew Jones prescribed 36 Lortab and did some unrelated diagnostic testing. *Id.* at 5 (CX-9 at 2-3; CX-16 at 9). Hamil returned to Dr. Jones on December 2, 2009, complaining that he pulled a muscle in his back, and the doctor prescribed another 36 Lortab. *Id.* at 5 (CX-15 at 3). On January 19, 2010, Hamil returned to the doctor, reporting a “crick” in his neck and shoulder pain, and was prescribed another 26 Lortab. *Id.* (CX-15 at 3). On January 21,

2010, when Hamil returned with the same complaints and a request for more pain medication, Dr. Jones discussed the overuse of narcotics with him. *Id.* (CX-9 at 6).

Five days after that discussion, on January 26, 2010, Hamil went to another physician, Dr. Aremmia Tanious, complaining of neck pain and stress. *Id.* at 5 (CX-10 at 7). Hamil reported an altercation with another person as the reason for his neck pain, and Dr. Tanious diagnosed whiplash. He prescribed 90 Lortab, 90 Soma, and 60 Xanax. *Id.* (CX-10 at 7-8; CX 14 at 2). Dr. Tanious offered to conduct an MRI and spinal x-rays, but Hamil declined. *Id.* (CX-10 at 8). Hamil returned to Dr. Tanious on February 25, 2010, again complaining of neck and back pain, and was again diagnosed with whiplash and chronic lower back pain. *Id.* at 5-6 (CX-10 at 10). The doctor once more recommended an MRI. Although Hamil was not working at the time, he told Dr. Tanious that he would have to check his schedule because he was out of state for several weeks at a time for work. *Id.* at 6 (CX-10 at 10).<sup>4</sup> Dr. Tanious prescribed an additional 90 Lortab, 90 Soma, 90 Xanax, and 60 Trazodone. *Id.* (CX-10 at 11).

On February 27, 2010, Hamil was found dead in his home. *Id.* at 6 (CX-17 at 47-48). The coroner noted numerous medication bottles that had been collected by police, and suspected an accidental overdose. *Id.* (EX-17 at 27, 57). The

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<sup>4</sup> Although Dr. Line released him for work on February 15, 2010, Hamil had not yet returned.

results of a toxicology test came back positive for hydrocodone and carisoprodol. *Id.* (EX-17 at 51); ERE 26 (CX-13 at 2). The coroner found the “Immediate Cause” of death to be consistent with poly-pharmacy (multi-drug) overdose. ERE 6 (CX-12 at 2, EX-17 at 57). She also noticed that his ankle had a scar, and was swollen and red. CX-27 at 42. She listed Hamil’s right ankle fracture as an “Other Significant Condition[] . . . contributing to death[.]” ERE 6-7 (CX-12).

## **II. DECISIONS BELOW**

### **A. First ALJ Decision**

On March 27, 2012, the ALJ issued a decision in which he found the Employer liable for Hamil’s funeral expenses and the death benefits payable to his dependents. He found that the claimants had invoked the presumption of coverage found in 33 U.S.C. § 920(a), and that the Employer had failed to rebut that presumption. ERE 11-12.<sup>5</sup>

The ALJ further found that Hamil’s death was a natural result of his workplace injury, and that no intervening or supervening cause severed the causal connection between Hamil’s ankle injury and his death as a result of a narcotic overdose. *Id.* at 11. The ALJ found that Hamil had no history of drug abuse

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<sup>5</sup> 33 U.S.C. § 920(a) provides that “[i]n any proceeding for the enforcement of a claim for compensation under this Act it shall be presumed, in the absence of evidence to the contrary . . . [t]hat the claim comes within the provisions of this Act.” 33 U.S.C. § 920(a).

before his ankle injury, and that the frequency and amount of narcotics prescribed for the ankle injury caused his dependence. Indeed, he found that Hamil began exhibiting abusive tendencies while still under the care of Dr. Line, who “confronted” Hamil about his abusive tendencies just three weeks after his injury, while still treating his ankle, on October 22, 2009, *id.* at 11, 12 n.4, leading Hamil to seek painkillers from Drs. Jones and Tanious. The ALJ found that “the true reason” Hamil had visited those doctors was to obtain additional drugs, not because of reported back and neck pain, of which there was little or no objective evidence. *Id.* at 12.

The ALJ rejected the Employer’s argument he should find an intervening cause based on this Court’s decision in *Bludworth Shipyard, Inc. v. Lira*, 700 F.2d 1046 (5th Cir. 1983). There, claimant Lira failed to inform his doctors of his prior heroin dependency when entering treatment for a back injury. *Id.* at 11. This Court held that Lira’s “intentional failure to inform his treating physicians that he was a prior addict constituted a supervening independent cause that worsened his condition. His omission overpowered and nullified the causal connection between his prior back injury and his subsequent readdiction to heroin.” *Lira*, 700 F.2d at 1052. The ALJ here, by contrast, found that “[p]rior to [Hamil’s] ankle injury on October 1, 2009, there is no evidence in the record to suggest Decedent was

habitually or casually using or being prescribed narcotic pain medication.” ERE 11 (CX 16, 27 at 35-36); *see* ERE 34 n. 6 (CX 14-16). Hamil’s mere taking of medication prescribed to him by a licensed physician treating his ankle and subsequent addiction from the use of those narcotics, the ALJ found, do not amount to an intervening cause. *Id.* at 11. The Employer appealed to the Board.

### **B. The Board’s First Decision**

The Board found substantial evidence to support the ALJ’s finding that the narcotic treatment for Hamil’s ankle injury could have caused his death, and thus affirmed the invocation of the § 920(a) presumption in his favor. ERE 19-21. The Board nonetheless vacated the award and remanded for the ALJ to address whether evidence presented by the Employer – that the same narcotics had been prescribed for Hamil’s later complaints of neck and back pain – rebutted the presumption, and if so, to weigh all of the relevant evidence to determine causation. ERE 21-22.

### **C. The ALJ’s Decision on Remand**

On remand, the ALJ found that the Employer had rebutted the presumption. ERE 26-27. He then “weigh[ed] all of the relevant evidence on the record as a whole with [claimants] bearing the burden of persuasion,” and again found that Hamil’s death was the natural result of his work-related ankle injury. *Id.* at 27. He noted that the medications found in Hamil’s system at the time of his death were

the same as those prescribed for his broken ankle, *id.* at 26, 27, and that the coroner listed Hamil's swollen ankle as an "Other Significant Condition" in determining the cause of his death. *Id.* at 27.

The ALJ rejected the Employer's argument that Hamil's treatment with Drs. Tanious and Jones for alleged back and neck pain amounted to an intervening or supervening cause, finding that Hamil had already developed a dependency on the pain medication before seeing those doctors. *Id.* He further found that Hamil's subjective reports of neck and back pain were discredited by the fact that, when Dr. Tanious recommended an MRI that would have allowed objective findings about his back and neck pain, Hamil delayed the test, falsely asserting that his schedule required him to work out of state for several weeks at a time when, in fact, he was not working at all. *Id.* The Employer again appealed to the Board.

#### **D. The Board's Final Decision**

The Board affirmed the ALJ's Decision on Remand. The Board recognized that Hamil's death would not be covered if it was due to an independent supervening cause, but agreed with the ALJ that it was not. ERE 33-35 (citing *Lira*, 700 F.2d 1046; *Mississippi Coast Marine, Inc. v. Bosarge*, 637 F.2d 994, *modified on reh'g*, 657 F.2d 665 (5th Cir. 1981); *Voris v. Texas Employers Ins. Ass'n*, 190 F.2d 929 (5th Cir. 1951)). The Board held that the ALJ's "conclusion

that decedent's death was the natural or unavoidable result of his work-related ankle injury is rational, supported by substantial evidence, and in accordance with law." *Id.* at 35. It found that the ALJ "was entitled to infer that decedent became dependent upon the medication prescribed for his work injury based on the decedent's repeated efforts to obtain refills of his prescriptions and on comments made by decedent's physicians." *Id.*

The Board also distinguished *Lira*, explaining that "[i]n *Lira*, the claim was not denied because the claimant became addicted to prescription narcotics and heroin after his work injury" but rather because the claimant had "intentionally misrepresented" his condition by concealing his past heroin addiction from the doctor treating his workplace injury. *Id.* at 35. The *Lira* Court held that the claimant's failure to reveal his prior drug addiction severed the link between the workplace injury and his subsequent readdiction. By contrast, the Board noted, the ALJ found that Hamil's pharmacy records showed that Hamil was not using narcotics before his ankle injury. *Id.* (citing ERE 11 and CX 14, 15, 16).

### **SUMMARY OF ARGUMENT**

The ALJ's finding that Hamil's fatal overdose was a natural result of his broken ankle is supported by substantial evidence and reasonable. Hamil, who had no prior history of narcotics use or abuse before his workplace ankle injury, was

prescribed 241 Lortab within the three weeks of that injury. When his treating physician raised the issue of narcotics overuse and limited his access to additional medication, Hamil sought and obtained additional prescription painkillers from other doctors. Based on that evidence, the ALJ reasonably concluded that Hamil became addicted to narcotics while being treated for the workplace ankle injury. And because his death by overdose resulted from that addiction, Hamil's death was the natural result of that workplace injury.

The ALJ also correctly found that the connection between Hamil's work-related ankle injury and his death was not severed when Hamil sought and took more of the same narcotics from other doctors. The ALJ found that Hamil did so as a direct result of the addiction that arose from, and during, his ankle treatment. It was entirely reasonable for the ALJ to find that Hamil's surviving dependents were entitled to LHWCA benefits. The decision below should be affirmed.

### **STANDARD OF REVIEW**

In reviewing a decision of the Board, this Court's "only function is to correct errors of law and to determine if the BRB has adhered to its proper scope of review – *i.e.*, has the Board deferred to the ALJ's fact-finding or has it undertaken de novo review and substituted its views for the ALJ's." *Avondale Shipyards, Inc. v. Vinson*, 623 F.2d 1117, 1119 n.1 (5th Cir. 1980). The ALJ is exclusively entitled

to assess both the weight of the evidence and the credibility of witnesses. *Ceres Gulf, Inc. v. Director OWCP*, 683 F.3d 225, 228 (5th Cir. 2012). The Court will disturb the ALJ’s factual findings only if they are not supported by substantial evidence. *Mendoza v. Marine Pers. Co.*, 46 F.3d 498, 500 (5th Cir. 1995).

“Substantial evidence is that relevant evidence – more than a scintilla but less than a preponderance – that would cause a reasonable person to accept the fact finding.”

*Director, OWCP v. Ingalls Shipbuilding, Inc.*, 125 F.3d 303, 305 (5th Cir. 1997).

With regard to questions of law, the Court’s review is plenary. *Ceres Gulf v.*

*Cooper*, 957 F.2d 1199, 1204 (5th Cir. 1992).

## **ARGUMENT**

### **I. THE ALJ’S FINDING THAT HAMIL’S DEATH FROM AN OVERDOSE OF NARCOTICS WAS A NATURAL RESULT OF HIS WORKPLACE ANKLE INJURY IS REASONABLE AND SUPPORTED BY SUBSTANTIAL EVIDENCE.**

The Act covers not only direct workplace injuries, but also any secondary injury that naturally or unavoidably results from an initial covered injury. 33 U.S.C. § 902(2); *see Insurance Company of Pennsylvania v. Director, OWCP (Vickers)*, 713 F.3d 779, 786 (5th Cir. 2013); *Amerada Hess Corp. v. Director, OWCP*, 543 F.3d 755, 763 and n.3 (5th Cir. 2008) (same). The ALJ reasonably found that Hamil’s accidental death from an overdose of prescription pain medications was a natural result of his work injury.

As the Board noted in its first decision, it is widely recognized that “where drugs used in the treatment of a compensable injury lead to narcotic addiction or alcoholism, the ensuing consequences are compensable.” ERE 22 n.7 (*citing Bludworth Shipyard, Inc. v. Lira*, 700 F.2d 1046, 1051 n.3 (5th Cir. 1983), in turn *citing* 1 A. Larson, *The Law of Workmen’s Compensation* § 13.2100 (1980)). While these cases are thankfully rare, the current version of Professor Larson’s treatise confirms the continued acceptance of this rule in workers’ compensation cases. Larson’s *Worker’s Compensation Law* § 10.09[5] and 10.09D[5] at D10-90 through D10-92 (2013) (collecting cases in several states holding that the natural consequences of narcotics addiction – ranging from rehabilitation to fatal overdoses – are covered by workers’ compensation statutes if the worker became addicted to narcotics during treatment for a work-related injury).<sup>6</sup>

The ALJ found that Hamil’s narcotic addiction was the natural result of his ankle-injury treatment, and that one of the consequences of that addiction was his accidental overdose of those narcotics. That finding is supported by substantial evidence in the record, which shows that: (1) Hamil had no history of drug abuse

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<sup>6</sup> As this Court recognized in *Lira*, the tort concept of proximate cause derives from negligence and “is not applicable in the LHWCA setting . . . in which [t]he court’s sole function is to determine whether the injury complained of was one ‘arising out of’ the employment. Once causation in fact is established, with only a few exceptions, the court’s function is at an end.” 700 F.3d at 1050.

before breaking his ankle; (2) in the first three weeks of treatment for that injury, he was prescribed 241 Lortab and 30 Soma; (3) at the three-week point, Hamil asked for more medication, and his treating physician, Dr. Line, felt compelled to raise Hamil's overuse of narcotics with him, and to greatly restrict his access to them (prescribing only 30 more pills over a two-week period); and (4) Hamil, with his initial source drying up, then sought additional narcotics from other physicians.<sup>7</sup>

The Employer argues that the ALJ erred in finding that Hamil's addiction developed while he was being treated for his ankle injury because no witness or expert specifically testified to that fact. Emper's Brf. at 25. But the ALJ correctly found that he could reach conclusions through reasonable inferences "by relying on the 'common sense of the situation,'" even if those conclusions are contrary to the weight of medical testimony. ERE 12 (*citing Atlantic Marine, Inc. v. Bruce*, 661 F.2d 898, 900 (5th Cir. 1981), in turn *citing Todd Shipyards Corp. v. Donovan*, 300 F.2d 741, 742 (5th Cir. 1962)). And here, there was no weight of medical

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<sup>7</sup> As the ALJ found, "[a]fter being confronted about his pain medication use by Dr. Line [on October 22, 2009], Decedent did not ask for anymore refills from Dr. Line until the screw was removed from his ankle on December 10, 2009. Instead, Decedent went to Dr. Jones for pain medicine starting on November 20, 2009. When Dr. Jones raised the issue of overusing prescription narcotics on January 21, 2010, Decedent switched to Dr. Tanious who wrote a prescription for Decedent on January 26, 2010." ERE 12 n.4.

testimony concerning when Hamil became addicted to narcotics, because neither side offered any direct testimony on the point. The ALJ simply relied on common sense and the facts before him – no evidence of pre-existing addiction, heavy narcotics use during the treatment of his broken ankle, and drug-seeking behavior after – to reach the rational conclusion that Hamil’s addiction developed during, and as a natural result of, the treatment of his ankle injury. While the ALJ could conceivably have drawn a different inference, he did not. And because his actual inference is reasonable based on the evidence before him, the Court may not draw a different one. *Ceres Gulf*, 683 F.3d at 232.<sup>8</sup>

Finally, the facts supporting the ALJ’s inference are not contested. There is no dispute that Hamil’s ankle injury (the initial injury) was compensable. *See* ERE 2, 11. There is no dispute that he was prescribed narcotics, including Lortab and

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<sup>8</sup> The Employer argues that it was error, under *Vickers* and *Amerada Hess*, for the ALJ to apply the § 920(a) presumption to Hamil’s death because it was too tenuous and remote a consequence of the work-related ankle fracture. Emper’s Brf. at 23-24. Even assuming the Employer has read those cases correctly, any error is harmless because the § 920(a) presumption did not affect the outcome of Hamil’s claim. Rather, the ALJ found the presumption both invoked and rebutted, and thus weighed the evidence as a whole – with the burden on Hamil – just as he would if the presumption had never been invoked. ERE 27. In any event, the Employer’s reliance on *Vickers* and *Hess* is misplaced. In those cases, the court held that the § 920(a) presumption could not be invoked because the secondary injuries were not specified in the claim. *Hess*, 543 F.3d at 761-62; *Vickers*, 713 F.3d at 785. Here, by contrast, Hamil’s accidental overdose was not only specified in the claim made by his survivors, but was the sole basis for that claim. CX-2.

Soma, for that ankle injury. And there is no dispute that those same drugs caused his death by accidental overdose. The connection the ALJ found between his workplace injury and his death, therefore, is clearly supported by both reason and the evidence of record.

**II. THE CONNECTION BETWEEN HAMIL’S WORKPLACE ANKLE INJURY AND HIS DEATH WAS NOT SEVERED BY ANY SUPERVENING CAUSE.**

The Employer relies on this Court’s decision in *Lira* to argue that Hamil’s drug-seeking behavior was a supervening cause that severed the link between Hamil’s workplace ankle injury and his death. Emper’s Brf. at 26-28. But because of factual differences between the cases, *Lira* does not support that result. As both the ALJ and Board found, the supervening cause in *Lira* – Lira’s intentional concealment of a prior drug addiction – does not exist here.

The *Lira* claimant was a former heroin addict. He concealed that fact from the employer when he applied for his job, and failed to tell his healthcare providers of his prior addiction when he injured his back at work. 700 F.2d 1048. He was consequently prescribed narcotics for the treatment of his workplace injury, and when he was unsatisfied with the pain relief he was getting from the legal drugs, he started using heroin, and again became addicted. *Id.* at 1048-49. He sought, under the Longshore Act, to have the employer pay for the medical expenses of his drug detoxification treatment. *Id.* at 1049. The Court, however, held that his

readdiction was not caused by his workplace injury, but by his concealment of the prior heroin addiction from his healthcare providers. *Id.* at 1048, 1052 n.6. It found that concealment not only “worsened his condition,” *citing Bosarge*, 637 F.2d at 1000, but was an independent supervening cause that “overpowered and nullified the causal connexity between his back injury and his readdiction.” 700 F.2d at 1052 (*citing Voris*, 190 F.2d at 865).<sup>9</sup>

The Court in *Lira* made clear, however, that had there been no pre-existing addiction, the employer would have been liable for the claimant’s post-injury addiction treatment. “Obviously, if Lira did not know of a particular weakness or susceptibility [to addiction], and therefore did not know he should advise those treating him, there would be no intervening cause.” *Id.* at 1052. Here, the ALJ found not only that Hamil had no history of drug abuse before his ankle injury, but

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<sup>9</sup> The Court in *Lira* noted that *Bosarge* and *Voris* use different language in their respective standards for determining the existence of a supervening cause – with *Bosarge* requiring only that the supervening cause worsen the progression of the work-related condition, and *Voris* requiring that it “overpower[ ] and nullif[y]” the causal connection to the employment, and be “entirely outside the employment.” *Lira*, 700 F.2d at 1050. Regardless, the Court found that the outcome was the same under either standard. The outcome here is also the same under either standard. As the Court said in *Lira*, “[t]he court’s sole function is to determine whether the injury complained of was one ‘arising out of’ the employment.” 700 F.2d at 1050. If so, a supervening cause will be found only where a subsequent event “interrupt[s] the causal chain between the original work-related injury and its remote consequences.” *Id.* at 1051. As the ALJ and Board both found, there was no supervening cause sufficient to break the causal chain between Hamil’s injury and death under either standard. ERE 11, 26-27, 33-37.

that he had apparently never taken narcotics before that injury. ERE 11 and n.2 (citing CX-16; CX-27 at 35-36). Based on that finding, Hamil could not have known of any susceptibility to a narcotics addiction. The supervening cause present in *Lira*, therefore, is absent here.

Nor is there any other supervening cause. The Employer argues that, because Hamil sought and took additional narcotics after concluding treatment of his ankle injury, the causal chain between that injury and his death is broken. But that argument simply ignores the ALJ's rational finding that Hamil sought those additional drugs to feed an addiction that arose during the treatment of his workplace ankle injury. *See* ERE 12, 27, 34 n.7. Given that finding, it does not matter who prescribed the specific pills in Hamil's system at the time of death; his death arose from an addiction that itself arose naturally from the treatment of his workplace injury. The ALJ thus reasonably concluded that the fatal overdose was a natural result of Hamil's workplace injury, and that nothing had severed the causal connection between the two.

This conclusion is similar to the one reached by this Court in *Voris*. There, the claimant was injured from an explosion on his employer's vessel, sustaining burns to his face and hands. 190 F.2d at 930. As a result of the accident, he developed depression and "manic-depressive insanity" which caused him to

commit suicide. *Id.* at 934. Because the accident caused the mental disorders, and those disorders caused the suicide, the Court held that death benefits were payable.<sup>10</sup> As here, the death was found covered because the workplace accident caused the mental disorder that caused the claimant's death. And because the death was a natural result of the workplace injury, it was compensable.

Before his workplace injury, Hamil did not abuse narcotics. Given the volume of narcotics Hamil was prescribed while being treated for his ankle, the fact that Dr. Line felt the need to discuss narcotics overuse with him while still treating his ankle injury, and Hamil's drug-seeking behavior thereafter, it was reasonable for the ALJ to find that Hamil became addicted to narcotics as a result of his workplace ankle injury. And because the consequences of a narcotic addiction stemming from a compensable injury are themselves compensable, *see Lira*, 700 F.2d at 1051 and n.3, Hamil's death by accidental narcotic overdose is compensable.

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<sup>10</sup> The primary issue in *Voris* was whether the claimant's suicide was "occasioned solely by the . . . *willful intention* of the employee to injure or kill himself," which would have prohibited the payment of benefits under 33 U.S.C. § 903(b) (now subsection (c)) (emphasis added). 190 F.2d at 934. The Court affirmed the deputy commissioner's finding that the claimant's mental disorders prevented him from acting willfully. *Id.* at 931, 934. And because the workplace accident caused the claimant's mental conditions, which in turn caused his suicide, *id.* at 934, the suicide was not an "influence[] originating entirely outside the employment." *Id.* at 934.

## CONCLUSION

For the foregoing reasons, the Court should affirm the decisions below.

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## CERTIFICATE OF SERVICE

I hereby certify that on May 19, 2015, the foregoing brief was electronically filed and served through the Court's CM/ECF system on:

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## COMBINED CERTIFICATES OF COMPLIANCE

I certify that:

1. Pursuant to Fed. R. App. Proc. 32(a)(5), (6) and (7)(B) and (C), this brief has been prepared using Microsoft Word, fourteen-point proportionally spaced typeface (Times New Roman), and that, exclusive of the certificates of compliance and service, the brief contains 4,948 words;
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